

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IKIDA SEARCY,

Plaintiff,

18-cv-8488 (JGK)

- against -

MEMORANDUM OPINION AND
ORDER

THE CITY OF NEW YORK ET AL.,

Defendants.

JOHN G. KOELTL, District Judge:

The individual defendant, Isidore Garcia ("the defendant") submitted an application for the Court to appoint pro bono counsel to assist in his representation. (Docket No. 32). The defendant's application to appoint counsel is **denied without prejudice** for failure to make the required showing. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986); Jackson v. Moscicki, No. 99cv2427 (JGK), 2000 WL 511642, at *4 (S.D.N.Y. Apr. 27, 2000). For the Court to order the appointment of counsel, the defendant must, as a threshold matter, demonstrate that his position has substance or a likelihood of success on the merits. See Hodge, 802 F.2d at 60-61. Only then can the Court consider the other factors appropriate to determination of whether counsel should be

appointed: the defendant's "ability to obtain representation independently, and his ability to handle the case without assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The defendant has not made such a showing. The defendant's application for the Court to appoint counsel is therefore **denied without prejudice** for failure to make the required showing at this time.


It may well be that the defendant can seek representation by the same counsel that represents the other defendants in this matter -- the City of New York and New York City Department of Parks and Recreation.

In any event, Garcia may seek assistance from the New York Legal Aid Group Legal Clinic for Pro Se Litigants, which is located at 40 Centre Street, Room LL22, New York, New York 10007, and is open on weekdays from 10:00 am until 4:00 pm. The New York Legal Aid Group can be reached by calling (212) 659-6190. The New York Legal Aid Group can, as appropriate, recommend other counsel for Garcia.

For the reasons explained above, the defendant's application for the Court to appoint counsel is **denied without prejudice**. The Clerk is directed to close the pending motion at Docket Number 32.

SO ORDERED.

**Dated: New York, New York
January 4, 2019**



**John G. Koeltl
United States District Judge**